

THE HONORABLE BENJAMIN H. SETTLE

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LESLIE WHITE,

Plaintiff,

vs.

ETHICON, INC.

Defendant.

Case No. 2:20-cv-00952-BHS

STIPULATION AND ORDER FOR
DISMISSAL OF CERTAIN CLAIMS

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii) and this Court's Order (Dkt. No. 68), the parties stipulate to the voluntary dismissal *with prejudice* of the following counts in this action, with each side to bear their own costs:

1. Count II: Strict Liability - Manufacturing Defect;
2. Count IV: Strict liability – Defective Product;
3. Count IX: Negligent Misrepresentation;
4. Count X: Negligent Infliction of Emotional Distress;
5. Count XI: Breach of Express Warranty;
6. Count XII: Breach of Implied Warranty;
7. Count XIII: Violation of Consumer Protection Laws;

STIPULATION AND ORDER FOR DISMISSAL
OF CERTAIN CLAIMS
(Case No. 2:20-cv-00952-BHS) - 1

LAW OFFICES
CALFO EAKES LLP
1301 SECOND AVENUE, SUITE 2800
SEATTLE, WASHINGTON 98101-3808
TEL (206) 407-2200 FAX (206) 407-2224

8. Count XIV: Gross Negligence; and

9. Count XV: Unjust Enrichment.

Subject to Defendants' reservation of their right to seek leave to file additional motions, the parties agree that the following claims will remain pending in this case:

1. Count I: Negligent Design Defect;

2. Count III: Strict Liability – Failure to Warn;

3. Count V: Strict Liability – Design Defect;

4. Count VI: Common Law Fraud;

5. County VII: Fraudulent Concealment;

6. Count VIII: Constructive Fraud;

7. Count XVII: Punitive Damages; and

8. Count XVIII: Discovery Rule and Tolling.

In light of the parties' stipulation to the dismissal of Counts II¹, IV, IX, X, XI, XII, XIII, XIV, and XV, the parties agree that Defendants' Motion for Partial Summary Judgement (Dkt. Nos. 35-36) is now moot.

DATED this 3rd day of December, 2020.

CALFO EAKES LLP

By s/Angelo J. Calfo

Angelo J. Calfo, WSBA# 27079

Patricia A. Eakes, WSBA# 18888

Damon C. Elder, WSBA# 46754

Andrew DeCarlow, WSBA# 54471

1301 Second Avenue, Suite 2800

Seattle, WA 98101

Phone: (206) 407-2200

Fax: (206) 407-2224

¹ Although Plaintiff is not pursuing a manufacturing defect claim, Plaintiff's Response requests the ability to present evidence on Ethicon's manufacturing process and the raw materials used in the manufacture of the Gynecare TVT products. (Dkt. No. 38 at 2–3).

Email: angeloc@calfoeakes.com
patty@calfoeakes.com
damone@calfoeakes.com
andrewd@calfoeakes.com

BUTLER SNOW LLP

By s/Anita Modak-Truran
Anita Modak-Truran, *Admitted Pro Hac Vice*
150 3rd Avenue South, Suite 1600
Nashville, TN 37201
Phone: (615) 651-6751
Fax: (615) 651-6701
Email: Anita.modak-truran@butlersnow.com

Attorneys for Defendant Ethicon, Inc.

FRIEDMAN RUBIN PLLC

By s/Peter J. Mullenix
Peter J Mullenix
1109 1st Ave., Suite 501
Seattle, WA 98101-2988
Phone: 206-501-4446
Email: pmullenix@friedmanrubin.com

SCHLESINGER LAW OFFICES PA (FL)

By s/Jeffrey L. Haberman
Jeffrey L. Haberman
1212 SE 3rd Avenue
Ft. Lauderdale, FL 33316
Phone: 954-320-9507
Email: Jhaberman@schlesingerlaw.com

ORDER

The Court GRANTS the stipulated dismissal of certain claims as set forth above.

IT IS SO ORDERED.

DATED this 4th day of December, 2020

A handwritten signature in black ink, appearing to read "Benjamin H. Settle", is written over a horizontal line.

BENJAMIN H. SETTLE

United States District Judge